IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 4599 of 2005

Between:

1. M/s Srinivasa Video (Firm) represented by its Partner Sri S.Nageswara Rao, S/o.late Sambu Prasad, Hindu, R/o.C-4 Sri Ranga Apartments, 21/23, Dr.Ranga Raod, Chennai.
2. Sri S.Nageswara Rao S/o.Late Sambhu Prasad, Hindu R/o.C-4 Sri Ranga Apartments, 21/23, Dr.Ranga Raod Chennai.
3. Smt.S.Seshamma, W/o.Sri S.Nageswara Rao, Hindu, House Wife, rest do.

... PETITIONERS

AND

1. Indian Bank represented by its Manager, Abhirampuram, Chennai.
2 Debts Recovery Tribunal Visakhapatnam.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, particularly a writ of Mandamus, declaring the order passed in M.A.No.58/2004 in O.A.No.63/1995 by the 2nd respondent dt.11.2.2005 as contrary to the principles laid down in the decided cases besides directing to decide the O.A. on merits.

Counsel for the Petitioners: MR.V.S.R.ANJANEYALU

The Court, at the stage of admission, made the following:

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ORDER: (Per BRSR,J)

This writ petition is directed against the Order, dated 11.02.2005, made in M.A.No.58 of 2004 in R.P.No.28 of 2004 in O.A.No.63 of 1995, on the file of the Debts Recovery Tribunal, Visakhapatnam. The petitioners herein filed the application to condone the delay of 27 days in filing the application to set aside the *ex parte* decree, dated 14.11.1995.

The Debts Recovery Tribunal found that the limitation for filing the application starts from 14.11.1995 when the O.A. was disposed of and there is a long delay of 9 years in filing the present application. It is for that reason, the Debts Recovery Tribunal held that the contention of the petitioners that the delay of 27 days only basing on knowledge cannot be accepted. That apart, the Debts Recovery Tribunal found that the Order, dated 14.11.1995, passed by the Debts Recovery Tribunal at Bangalore is not an ex parte decree, but a decree on merits.

Sri V.S.R. Anjaneyalu, learned counsel for the petitioners, after making submissions for some time, when confronted with the question from the Court as to why the petitioners could not prefer appeal against the impugned order, submitted that leave may be granted to the petitioners to approach the Appellate Tribunal seeking such relief as may be available to them in law. In such view of the matter, we dismiss this writ petition only on the ground of availability of alternative remedy to the petitioners herein, which they are entitled to avail, in accordance with law.

We are not inclined to entertain this writ petition since the petitioners have an alternative and effective remedy by way of appeal to the Appellate Tribunal. It is needless to observe that the interlocutory application, if any, to be filed along with the appeal, shall also be considered by the Appellate Tribunal, in

accordance with law.

The writ petition is accordingly dismissed.

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B. SUDERSHAN REDDY, J.

Date:17.03.2005

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C.V. RAMULU, J.

Note: Furnish C.C. of the

order by 21.03.2005.

(B/o)

GS/BSC

To

1. The Manager, Indian Bank, Abhirampuram,
Chennai.

2 The Presiding Officer, Debts Recovery Tribunal

Visakhapatnam.

3 Two C.D. Copies.